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3       UNITED STATES DISTRICT COURT  
      EASTERN DISTRICT OF NEW YORK  
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83       UNITED STATES OF AMERICA,       )       15-CR-00601 (DLI)  
4   Plaintiff,       )  
5   )       United States Courthouse  
6   )       Brooklyn, New York  
7       V.                               )       TUESDAY, DECEMBER 22, 2015  
8   )       10:00 a.m.  
9   Defendant.       )  
10                                        )  
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10       TRANSCRIPT OF CRIMINAL CAUSE FOR STATUS CONFERENCE  
      BEFORE THE HONORABLE DORA L. IRIZARRY  
      UNITED STATES DISTRICT JUDGE  
1112       APPEARANCES:13       FOR THE GOVERNMENT: ROBERT L. CAPERS  
14   United States Attorney  
15   BY: DOUGLAS PRAVDA  
16   Assistant United States Attorney  
17   Eastern District of New York  
18   271 Cadman Plaza East  
19   Brooklyn, New York 11201  
2021       FOR THE DEFENDANT: COLSON & HARRIS LLP  
22   BY: DEBORAH COLSON, ESQ.  
23   80 Broad Street, 19th Floor  
24   New York, New York 10004  
2526       THE COURT REPORTER: NICOLE CANALES, RPR, CSR  
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3031       Proceedings recorded by mechanical stenography, transcript  
32   produced by Computer-Assisted Transcript.  
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1                   THE CLERK: Criminal Cause for Status Conference,  
2 Docket Number 15CR601, United States versus Ying Lin.

3                   Please state your appearances.

4                   MR. PRAVDA: Good morning, your Honor. Doug Pravda  
5 for the United States.

6                   THE COURT: Good morning.

7                   MS. COLSON: Good morning, your Honor. Deborah  
8 Colson for Ying Lin.

9                   THE COURT: Good morning.

10                  Good morning, Mr. Lin.

11                  THE DEFENDANT: Good morning. Ying Lin. I'm the  
12 defendant.

13                  THE COURT: Good morning. Ms. Lin is being assisted  
14 by the Mandarin interpreter. You're not interpreting.

15                  THE INTERPRETER: She told me not to, unless she  
16 would like me to interpret.

17                  THE COURT: Does your client need a Mandarin  
18 interpreter or not?

19                  MS. COLSON: She speaks English very well, but there  
20 were some words she did not understand at her arraignment, so  
21 I asked that an interpreter be present today.

22                  THE COURT: If an interpreter is going to be present  
23 here, then the interpreter has to be used for the entire  
24 proceeding; and I'm assuming if an interpreter is here, it's  
25 because the interpreter is needed, so she can't have it both

1 ways. Either she needs the interpreter or she doesn't.

2 MS. COLSON: I believe she needs the interpreter,  
3 then.

4 THE COURT: All right. Then we'll have the  
5 interpreter do his job. May we have your name, please, for  
6 the record.

7 THE INTERPRETER: John Lau, L-a-u.

8 THE COURT: Good morning. And may we have Mr. Lau  
9 sworn, please.

10 THE CLERK: Please raise your right hand. Do you  
11 affirm that you will well and truly interpret the proceedings  
12 before the Court?

13 THE INTERPRETER: Yes, I do.

14 THE CLERK: Thank you.

15 THE COURT: Ms. Lin, you would do yourself a great  
16 service by following the advice of your attorney moving  
17 forward.

18 Who is this other person at the table?

19 MS. COLSON: This is Todd Newhouse. He's an  
20 associate in my office. I apologize for not introducing him  
21 initially.

22 THE COURT: Good morning, sir.

23 MR. NEWHOUSE: Good morning.

24 THE COURT: I have reviewed the docket on this  
25 matter, and I see that this is the first initial appearance

1 before me.

2 Ms. Lin, my name is Dora Irizarry. I am a district  
3 judge who is assigned to handle this matter, and you will be  
4 appearing before me for all matters except for those matters  
5 that I might refer to the magistrate judge.

6 And I see that she has been arraigned on the  
7 indictment and has had bail set by the magistrate judge.  
8 The Court is also in receipt of a last-minute memorandum of  
9 law submitted in support of a motion for a pretrial conference  
10 that was received by the Court yesterday afternoon. I don't  
11 understand why I couldn't have been given a few more days'  
12 notice, Mr. Pravda.

13 MR. PRAVDA: I apologize, your Honor. What the  
14 government's intent was, to ask the Court to set another  
15 status conference in approximately 30 days. We have already  
16 begun producing discovery to the defendant. We sent some  
17 discovery out yesterday. We're also gathering additional  
18 financial records and additional documents with Ms. Colson's  
19 request, and we should be ready to produce those additional  
20 documents, I would say, shortly after the New Year. However,  
21 there's also a body of classified information relating to this  
22 particular defendant.

23 I don't know that anything in that classified  
24 information will relate to the obstruction charge; however,  
25 the government, obviously, has Brady and Giglio obligations to

1 review all that material in connection with this case, and so  
2 the purpose of filing that motion, your Honor, just to give  
3 you a heads-up that what we will do is at the next status  
4 conference, ask the Court to also set a schedule with respect  
5 to discovery in any potential pretrial motion with respect to  
6 classified information.

7 I apologize if I didn't get to that until a few days  
8 ago, so that you would have more time to review that. All  
9 we're asking for in the motion is that the next status  
10 conference date also be designated a CEPA Section 2  
11 conference, so that we can have the discussion at that status  
12 conference, with respect to when the government will have  
13 completed the review of the classified ordinance and how we  
14 might set a schedule going forward.

15 THE COURT: I would expect that given the number of  
16 terrorism cases that have been filed within the 2nd Circuit,  
17 certainly within the past decade, that there would be a more  
18 updated brief with some 2nd Circuit cases, other than this  
19 canned brief that I was provided with, some cases that are  
20 over 30 years old. There isn't a single 2nd Circuit case  
21 cited in this brief or a case from this district.

22 The other issue that I take with the government is  
23 that if there is going to be classified information, why  
24 the Court wasn't given more notice previously, even by an  
25 ex parte letter; because I'm going to have to have my law

1 clerks given security clearance. Or do you think that I'm  
2 going to have to review all these motions by myself and all  
3 these documents by myself? The security clearance takes a  
4 long time, in my experience, but that didn't cross your mind.  
5 And you didn't notify DOJ to make sure that DOJ would have its  
6 people from the office that deals with these issues, the  
7 liaison with the court -- and I forget the exact name of the  
8 office within the DOJ that does this -- to notify the Court,  
9 so that we can get that process rolling. This case was filed  
10 in August. It takes months for these security clearances to  
11 go through.

12 MR. PRAVDA: We should have notified you after the  
13 case was assigned to you at the beginning of this month. I  
14 did think that notifying you, at this time, was a first status  
15 conference, would be sufficient. But I apologize, your Honor;  
16 you're entirely right that the ball should have been rolling,  
17 with respect to the court information security officer and  
18 having your law clerks cleared. I have already notified  
19 the court information security officer with respect to the  
20 possibility of classifying information in this case, and I  
21 imagine he will be in contact with the Court and the law  
22 clerks shortly, as well as Ms. Colson --

23 THE INTERPRETER: Can he use the mike?

24 THE COURT: He is using the microphone. Let's see  
25 if we can get the volume a little higher. If you can speak

1 directly into -- what did you not hear?

2 THE INTERPRETER: Just last bit, what --

3 THE COURT: Could you just repeat the last couple of  
4 things that you said, Mr. Pravda.

5 MR. PRAVDA: Yes. I apologize. I was saying that I  
6 have already notified the court information security officer  
7 with regard to this case, so I imagine that individual will be  
8 in touch with the Court shortly.

9 THE COURT: When did you notify them?

10 MR. PRAVDA: I notified them this morning,  
11 your Honor.

12 THE COURT: Just this morning?

13 MR. PRAVDA: Yes, your Honor, after --

14 THE COURT: In the middle of the holiday season. So  
15 that's not getting the ball rolling. Getting the ball rolling  
16 would have been notifying them in November, a month ago.

17 MR. PRAVDA: Well, your Honor, I couldn't have  
18 notified them prior to the time that the case was assigned to  
19 this court. As I said, I did think that in providing notice  
20 at the first status conference would be sufficient, but I  
21 apologize for not having done so previously.

22 THE COURT: This case was indicted in November and  
23 presumably assigned to me in November, once it was indicted.

24 MR. PRAVDA: Yes, your Honor, that's correct.

25 THE COURT: So that's been a month. I'm not going

1 to be here next week, so I don't know when you think that the  
2 court information security officer is going to have the  
3 opportunity to contact me to begin the process. This process  
4 takes quite a few months to complete. I've been through this  
5 before. Is this your case now, or is Mr. Richardson still on  
6 the case?

7 MR. PRAVDA: It is my case, your Honor.

8 Mr. Richardson is still involved, yes.

9 THE COURT: Ms. Colson, you wish to be heard? Did  
10 you receive a copy of the motion?

11 MS. COLSON: I did, your Honor. I would just like  
12 to put one thing on the record regarding my own security  
13 clearance, which is that I previously had security clearance.  
14 It expires after five years. It expired this spring. I filed  
15 an application for renewal in the spring, and I have not heard  
16 anything from the court information security officer, other  
17 than the application remains pending, and that I should go  
18 ahead and review any documents, if necessary, unless I hear  
19 otherwise. So I just want to make it clear to the Court that  
20 I have not received any formal notice that my renewal  
21 application has been approved; nor have I received any notice  
22 that it's been denied, despite my best efforts.

23 THE COURT: I want the number to the court  
24 information security office officer by noon today, because  
25 this is not acceptable. You've had a whole month to move this

1 along. And certainly defense counsel has to have security  
2 clearance, as well as anybody else in her office that may --  
3 that she may need assistance from, who, in all likelihood,  
4 doesn't have their own security clearance. And at least two  
5 of my law clerks have not had prior security clearance, and  
6 theirs is going to take a long time to go through. Takes a  
7 the least five months. I don't know what you were thinking.

8 MR. PRAVDA: I'm sorry, your Honor. We'll provide  
9 that to you.

10 THE COURT: Sorry doesn't cut it, and I'll expect  
11 there will be more thought and consideration given in this  
12 matter. Well, you're asking for 30 days, but there is a good  
13 possibility that I will not be available the last two weeks in  
14 January and possibly the first week in February. So either it  
15 has to be the second week in January for your pretrial  
16 conference, and I have a hearing scheduled for the morning of  
17 Friday, the 15th, and already have other matters scheduled for  
18 the 15th. How long will this pretrial conference take?

19 MR. PRAVDA: You mean how much time?

20 THE COURT: Yes. How long? How many hours?  
21 Minutes?

22 MR. PRAVDA: I imagine it would be half an hour,  
23 more or less. I think we're just setting the schedule. But  
24 the reason why we can't do it right away is I don't know, at  
25 this point, when the government will be able to complete

1 reviewing the material that it needs to review in order to be  
2 able to tell the Court how long it believes it will take.

3 THE COURT: Either we put it on for the 15th in the  
4 afternoon, assuming that the parties are available, or else we  
5 put it over into the second week of February.

6 MS. COLSON: We are available on the 15th,  
7 your Honor.

8 THE COURT: Rather than waste everybody's time on  
9 the 15th, if the government has not been able to complete its  
10 review or hasn't come across any classified information --  
11 well, I suppose we can leave it on as a status conference.  
12 Let's just leave it one way or the other. Are you available?

13 MR. PRAVDA: I am available on the 15th.

14 THE COURT: How about 3:30?

15 MR. PRAVDA: That's fine, your Honor.

16 MS. COLSON: That's fine, your Honor.

17 THE COURT: So 3:30 on January 15th. And does your  
18 client consent to the exclusion of time?

19 MS. COLSON: Yes.

20 THE COURT: Time is excluded on consent and in the  
21 interest of justice, for the reasons stated on the record.  
22 Anything else that the parties want to raise today?

23 MR. PRAVDA: Your Honor, should I send a letter to  
24 the Court by, say, the 12th or the 13th, notifying the Court  
25 whether we'll be ready to have the Section 2 conference on the

1 15th or whether it will be a regular status conference?

2 THE COURT: We'll just have a conference on the  
3 15th, one way or the other.

4 MR. PRAVDA: Okay.

5 THE COURT: And any other assistant that joins the  
6 case is going to have to file a notice of appearance promptly,  
7 Mr. Pravda.

8 MR. PRAVDA: All right.

9 THE COURT: Make sure, please, that I have the name  
10 and number for the court information security officer.

11 MR. PRAVDA: Yes, your Honor.

12 THE COURT: My deputy also has to receive security  
13 clearance as well. This is a complicated process, and I don't  
14 know what the government's position is. I'm not -- I don't  
15 know whether the Court information security officer that you  
16 spoke to, Ms. Colson, has the authority to say go ahead and  
17 look at classified information if you have an expired security  
18 clearance.

19 MS. COLSON: Yes.

20 THE COURT: Odds are that -- I mean, you've been  
21 doing a number of these cases for a while, so I'm not  
22 anticipating any issues, but I also don't want there to be  
23 some sort of problem that comes back and bites everybody later  
24 on.

25 MS. COLSON: I understand, your Honor. I had spoken

1 with him several times. I believe his name is Mike Maseesa  
2 (phonetic).

3 THE COURT: He's been sort of phased out from this;  
4 there's somebody else that's doing it, but I think he's  
5 transitioning out.

6 MS. COLSON: He's the one I spoke with, and he's  
7 told me on several occasions, because I have nudged him to  
8 make sure my security clearance gets renewed.

9 THE COURT: Is he the person you spoke with?

10 MR. PRAVDA: It is Harry Drucker.

11 THE COURT: Harry Drucker?

12 MR. PRAVDA: Yes. I can give his contact  
13 information to your deputy right after this proceeding.

14 THE COURT: I know that Mr. Maseesa is transitioning  
15 out, so it's a new person that's taking care of these matters,  
16 at least for this district anyway. All right. Thank you.

17 MS. COLSON: Thank you.

18 THE COURT: Happy holidays to all.

19 MR. PRAVDA: Thank you, your Honor. Happy holidays.

20 THE COURT: Thank you, Mr. Lau.

21 (Proceedings adjourned.)

22 \* \* \*

23 I certify that the foregoing is a true and correct  
24 transcription of the record from proceedings in the  
above-entitled case.

25 /s/ Nicole Canales  
Nicole Canales

February 25, 2016  
Date